

III. REMARKS

Claims 1-7 and 21-26 are pending in this application. By this Amendment, claim 1 has been amended, claims 8-20 have been cancelled and new claims 21-26 have been added. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the above amendments and following remarks is respectfully requested.

In the Office Action, claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. However, no explanation has been provided to support this rejection. Accordingly, Applicants respectfully request the Office provide detailed explanations for the rejection.

In the Office Action, claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bjorkman et al. (US 6,340,435), hereinafter "Bjorkman," in view of Colombo et al. (US Pub. No. 2003/0109146), hereinafter "Colombo." Applicants respectfully traverse this rejection for the reasons that follow.

With respect to independent claim 1, Applicants submit that the suggested combination of the cited prior art does not disclose or suggest each and every claimed feature. For instance, Bjorkman and Colombo do not disclose or suggest, *inter alia*, "a substrate including silicon ... [and] a dielectric layer atop the substrate, the dielectric layer including a first sub-layer, a second sub-layer and a first non-discrete transitional sub-layer residing between the first and second sub-layer[.]" (Claim 1). The Office alleges that layer 50 of Bjorkman is a substrate (see Office Action at page 3), which lacks foundation because Bjorkman discloses layer 50 as "a lower

dielectric layer” (col. 8, line 10). Nevertheless, Applicants have amended claim 1 to include the feature that the substrate includes silicon, which further distinguishes the claimed invention from Bjorkman. Colombo does not overcome this deficiency of Bjorkman.

In addition, Bjorkman does not disclose or suggest “a first non-discrete transitional sub-layer residing between the first and second sub-layer” as the Office admits. (See Office Action at page 3.) Contrary to the assertion of the Office, however, Applicants submit that Colombo does not overcome this deficiency of Bjorkman because layer 14b of Colombo is not “residing between the first and second sub-layer (of a dielectric layer)” as included in the claimed invention. (Claim 1 of the claimed invention; parenthetical explanation added). Rather, sub-layer 14b of Colombo is located between substrate 12 and a silicon dioxide sub-layer 14a. (See page 1, paragraph 0005.)

In view of the foregoing, Bjorkman and Colombo do not disclose or suggest all the features of the claimed invention.

Moreover, Applicants submit that there is no suggestion or motivation to combine Bjorkman and Colombo because there is no reasonable expectation of success of the combination that can be founded in the teachings of Bjorkman and Colombo. In Colombo, the transitional sub-layer 14b is formed due to the “nature that arise[s] during the formation of a layer using silicon and oxygen (i.e., silicon dioxide).” (Page 1, paragraph 0005; parenthetical explanation added). This specific nature of the formation of a layer using silicon and oxygen does not exist in Bjorkman regarding dielectric layers 40, 42 and 44. That is, there is no reason expectation of success to adopt the teachings of Colombo regarding the transitional layer 14b into Bjorkman to form a transitional layer between dielectric layers 40, 42 and 44. Applicants submit that the Office can obtain suggestion or motivation to combine Bjorkmand and Colombo

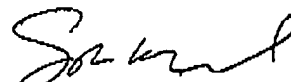
regarding the first non-discrete transitional layer only from the hindsight teachings of the claimed invention.

In view of the foregoing, Applicants submit that the Office does not establish a *prima facie* case of obviousness and respectfully request withdrawal of the rejection.

The new independent claim 21 includes the allowable features of the original claim 1. In addition, claim 21 includes, *inter alia*, "the at least one component being selected from a group consisting of fluoroalkylsilanes, fluoralkylsiloxanes, perfluoroalkylsilanes, and perfluoroalkylsiloxanes." Bjorkman, e.g., column 10, lines 15-54, does not disclose or suggest fluoroalkylsilanes, fluoralkylsiloxanes, perfluoroalkylsilanes, and perfluoroalkylsiloxanes as choices of the organosilicon compounds.

Applicants respectfully submit that the application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in better condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,


Spencer K. Warnick
Reg. No. 40,398

Date:

3/14/06

Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)